

### § 402.3

(c) *Other defined terms.* In this part, the term—

*Comparable market rents* means rents determined in accordance with section 524(a)(5) of MAHRA and HUD's instructions.

*Large family* means a family of five or more persons.

*OCAF* means an operating cost adjustment factor established by HUD, which may not be negative, that is applied to the existing contract rent (less the portion of that rent paid for debt service).

*Portfolio Reengineering demonstration authority* means the authority specified in section 524(e)(2)(B) of MAHRA.

*Project-based assistance* means the types of assistance listed in section 512(2)(B) of MAHRA, or a project-based assistance contract under the Section 8 program renewed under section 524 of MAHRA.

*Project eligible for exception rents* means a project described in section 524(b) of MAHRA.

*SRO contract* and *SRO project* mean, respectively, a project-based assistance contract for single-room occupancy dwellings under section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), and a project with units covered by such a contract.

[71 FR 2121, Jan. 12, 2006]

### § 402.3 Contract provisions.

The renewal HAP contract shall be construed and administered in accordance with all statutory requirements, and with all HUD regulations and other requirements, including changes in HUD regulations and other requirements during the term of the renewal HAP contract, unless the contract provides otherwise.

[71 FR 2121, Jan. 12, 2006]

### § 402.4 Contract renewals under section 524(a)(1) of MAHRA.

(a) *Initial renewal.* (1) HUD may renew any expiring section 8 project-based assistance contract at initial rents that do not exceed comparable market rents.

(2) *Procedure for projects eligible for Restructuring Plan.* (i) If an owner requests renewal of a contract under this section for a project that is eligible for

### 24 CFR Ch. IV (4–1–07 Edition)

a Restructuring Plan under the Mark-to-Market program under part 401 and that has not been rejected under that part, HUD or a PAE will determine whether renewal under this section, instead of through a Restructuring Plan under part 401 of this chapter, would be sufficient. Renewal without a Restructuring Plan will be considered sufficient if the rents after renewal would be sufficient to maintain both adequate debt service coverage on the HUD-insured or HUD-held mortgage and necessary replacement reserves to ensure the long-term physical integrity of the project, taking into account any comments received under § 401.502(c) of this chapter.

(ii) If HUD or the PAE determines that renewal under this section would be sufficient, HUD will not require a Restructuring Plan.

(iii) If HUD or the PAE determines that renewal under this section would not be sufficient, HUD or the PAE may require a Restructuring Plan before the owner's request for contract renewal will be given further consideration. If the owner does not cooperate in the development of an acceptable Restructuring Plan, HUD will pursue whatever administrative actions it considers necessary.

(b) [Reserved]

[65 FR 15498, Mar. 22, 2000, as amended at 71 FR 2121, Jan. 12, 2006]

### § 402.5 Contract renewals under section 524(b) or (e) of MAHRA.

(a) *Renewal of projects eligible for exception rents at owner's request.* HUD will offer to renew project-based assistance for a project eligible for exception rents under section 524(b) of MAHRA at rent levels determined under this section instead of § 402.4, except as provided in § 402.7, but the owner of a project other than a project with assistance under the Section 8 moderate rehabilitation program may request renewal under § 402.4.

(b) *Rent levels for projects eligible for exception rents.* HUD will renew the contract with rent levels at the least of:

(1) Existing rents adjusted by an OCAF;

(2) A budget-based rent determined in accordance with instructions issued by